

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DAVIS et al.
Title: DIGITALLY MARKED
OBJECTS AND
PROMOTIONAL METHODS
Appl. No.: 09/697,009
Filing Date: 10/25/2000
Patent No.: 8,103,542
Grant Date: 1/24/2012
Examiner: Raquel Alvarez
Art Unit: 3682
Confirmation 4530
Number:

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR
PATENT UNDER 37 C.F.R. §1.705(d)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

Applicants have calculated PTA for the captioned patent and have determined that the patent is entitled to 3130 days of Patent Term Adjustment, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702, 1.703 and 1.704:

(a) Total PTO delay: 3346 days

(b) Total Applicant delay: 216 days

Final PTA Determination under 37 CFR §1.703(f): 3130 days

In accordance with 1.705(b)(2)(ii), the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled are clearly represented in the attached PTA Calculation.

The relevant dates where the applicant is not in agreement with the PTO's determination are discussed in more detail below.

The above discrepancy occurs as a result of the PTO's failure to include 711 days of additional PTA accumulated in applicant's favor based on the provisions of 37 C.F.R. §§ 1.702(b)(1) and 1.703(b)(1), wherein PTA begins to accumulate in applicant's favor on the day after the commencement of three years from the filing date. Although the PTO awarded 2142 days for the time the application was on appeal, applicants believe that an additional 711 days based on the provisions of 37 C.F.R. §§ 1.702(b)(1) and 1.703(b)(1) until the date the Request for Continued Examination was filed on 8/19/2011, when the three year period was stopped.

In accordance with §1.705(b)(2)(iv)(A), the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 are clearly represented in the attached PTA Calculation.

Applicants therefore respectfully request that the patent be accorded 3130 days PTA.

Fees in the amount of \$200.00 set forth in 37 C.F.R. § 1.18(e) to cover the fee for this request are being paid by credit card via EFS-Web.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.705, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

Date March 21, 2012

FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4292
Facsimile: (608) 258-4258

By 

Paul S. Hunter
Attorney for Applicant
Registration No. 44,787

CLOSE WINDOW

ALL CASES SELECT CASE

Patent Term Adjustment Calculation System

Add a new event to this case

Docket Number: 098888-1561
 Application Number: 09/697009
 Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	10/25/2000	0		
Edit Delete	Notice to File Missing Parts	01/03/2001	70		
Edit Delete	Response to Notice to File Missing Parts	03/05/2001	131		
	14 month From Application date	12/25/2001	426		
Edit Delete	Restriction Requirement	05/02/2003	919	493	
Edit Delete	Restriction Requirement Response Received at PTO	07/29/2003	1,007		
Edit Delete	IDS Rcv'd at PTO - No Statement under 1.704(d)	09/15/2003	1,055		48
Edit Delete	Final Office Action	10/21/2003	1,091		
	3 Year Period Starts	10/25/2003	1,095		
Edit Delete	Final Office Action Response Received at PTO	12/19/2003	1,150		
	Final Office Action + 3 months	01/21/2004	1,183		
Edit Delete	Advisory Action	01/27/2004	1,189		
Edit Delete	Notice of Appeal Received at PTO	03/24/2004	1,246		63
Edit Delete	Appeal Brief Received at PTO	05/24/2004	1,307		
Edit Delete	IDS Rcv'd at PTO - No Statement under 1.704(d)	05/26/2004	1,309		(2),(63) 63
Edit Delete	Non-Final Office Action	08/13/2004	1,388		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	11/12/2004	1,479		
Edit Delete	IDS Rcv'd at PTO - No Statement under 1.704(d)	01/28/2005	1,556		77
Edit Delete	Final Office Action	01/31/2005	1,559		
Edit Delete	Final Office Action Response Received at PTO	03/31/2005	1,618		
Edit Delete	Advisory Action	04/26/2005	1,644		
	Final Office Action + 3 months	04/30/2005	1,648		
	3 Year Period Paused	05/04/2005	1,652	557	
Edit Delete	Notice of Appeal Received at PTO	05/05/2005	1,653		5
	Appellate review by the Board of Patent Appeals and Interferences Commences	05/05/2005	1,653		
Edit Delete	Appeal Brief Received at PTO (Non-Compliant)	10/07/2005	1,808		

Edit Delete	Appeal Brief Received at PTO	03/16/2006	1,968	
	Appeal Brief Filed + 4 months	07/16/2006	2,090	
Edit Delete	Examiner's Answer Mailed	05/17/2007	2,395	(305)
Edit Delete	Appeal Decided by Appeal Board; Some/All Rejections Reversed	03/16/2011	3,794	2142
	3 Year Period Resumed	03/17/2011	3,795	
Edit Delete	Notice of Allowance	05/25/2011	3,864	
	3 Year Period Stopped	08/18/2011	3,949	154
Edit Delete	Request For Continued Examination (including amendment)	08/19/2011	3,950	
Edit Delete	Notice of Allowance	09/01/2011	3,963	
Edit Delete	IDS Rcv'd at PTO - No Statement under 1.704(d)	11/01/2011	4,024	
Edit Delete	Supplemental Notice of Allowability	11/21/2011	4,044	21
Edit Delete	Issue Fee Paid	11/29/2011	4,052	
Edit Delete	Patent Grant Date	01/24/2012	4,108	
			Totals:	3,346 277
			PTA:	3,069

Created and maintained by
FOLEY
FOLEY & LARDNER LLP

Version: 3.02.13

LOGIN: Linda Anderson

IP: 10.24.4.31

Foley & Lardner LLP